

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**BRINK'S GLOBAL SERVICES USA, INC.,**

**Employer,**

**and**

**Case No. 29-RC-260969**

**LAW ENFORCEMENT OFFICERS  
SECURITY UNIONS LEOSU (LEOSU-PBA)**

**Petitioner.**

**BRINK'S GLOBAL SERVICES USA, INC.'S OPPOSITION TO PETITIONER'S  
REQUEST FOR REVIEW OF REGIONAL DIRECTOR'S REPORT ON CHALLENGES**

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Counsel for Brink's Global Services USA, Inc.

Pursuant to Section 102.67(f) of the National Labor Relations Board's Rules and Regulations, Brink's Global Services USA, Inc. ("Brink's" or the "Company") files its Opposition to Petitioner's Request for Review of the Regional Director for Region 29's Report on Challenges dated September 22, 2020 in the above-captioned matter.

Petitioner Law Enforcement Security Officers Unions ("Union" or "Petitioner") limits the scope of its Request for Review to the Regional Director's decision to count the ballots of Sherob Kellam ("Kellam") and Katharyne Martina ("Martina"). (*See* Attachment 1 [hereinafter, "Request"], p. 1.)

The Petitioner's Request fails to raise a substantial question of law or policy. To the contrary, the Regional Director's decision to count the disputed votes is entirely consistent with officially reported Board precedent. There are no compelling reasons for reconsideration with respect to the Board rules and policy that govern the Regional Director's determination that the votes of Kellam and Martina are valid and must be counted. As explained herein, the Board should deny the Petitioner's Request.

## **I. STATEMENT OF THE CASE**

On May 29, 2020, the Union filed a representation petition involving the Company's facility in Springfield Gardens, New York. Pursuant to the Decision and Direction of Election that issued on June 25, 2020, a mail ballot election was conducted among the employees in the stipulated voting unit. The ballots were counted on August 25, 2020. The result was 17 votes for the Union, 15 votes against and 5 challenged ballots. The challenged ballots were sufficient in number to affect the results of the election.

The Petitioner challenged the ballots of two employees who received duplicate ballots, one employee whose ballot was not postmarked (Martina), and one employee whose ballot was

postmarked after July 31, 2020 (Kellam). The Company challenged the ballot of an employee who cast a distinctive vote using a sample ballot on a white paper copy of the Notice of Election (the “sample ballot”), instead of the official yellow ballot provided in the NLRB’s voter kit.

On September 22, 2020 the Regional Director issued the Report on Challenges.<sup>1</sup> (*See* Attachment 2 [hereinafter, “Decision”].) Relevant to the Union’s Request, the Regional Director properly found that under established NLRB law, the votes of Kellam and Martina should be counted. The Regional Director based this conclusion on the NLRB’s Casehandling Manual (“CHM”) and well-established NLRB case law holding that, “The Board will generally permit mail ballots received after the due date, but before the count, to be opened and tallied.” (Decision, p. 3.)

## **II. RELEVANT BACKGROUND**

The Regional Director’s Decision and Direction of Election (*see* Attachment 3 [hereinafter, “DDE”]) stated:

- “Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 29 office by close of business on **JULY 31, 2020.**”
- “In order to be valid and counted, the returned ballots must be postmarked on or before July 31, 2020 and received in the Region 29 Office prior to the counting of the ballots.”

(DDE, p. 4.)

The DDE included copies of materials that were included in the voter kit that was mailed to eligible employees. The “Notice of Election” that employees received stated in relevant part:

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<sup>1</sup> The Regional Director has reserved her decision on the parties’ objections and has indicated she will issue a Revised Tally of Ballots before proceeding to rule on objections. (Decision, p. 4.)

- “Voters must return their mail ballots so that they will be received by the National Labor Relations Board, Region 29, by close of business on **Friday, July 31, 2020.**”
- “In order to be valid and counted, the returned ballots must be received by the Region 29 Office prior to the counting of the ballots.”

(DDE, p. 7.)

The “Instructions” that were provided to voters were silent with regard to any postmark date. Further, the “Instructions” specifically stated, “In order to be valid and counted, the returned ballots must be received by the Region 29 Office prior to the counting of the ballots.”

(DDE, p. 7.) Kellam’s ballot was postmarked August 1, 2020. (*See* Attachment 4, Declaration of Kelly Apuzzo [hereinafter, “Apuzzo Decl.”] at ¶ 6.) Martina’s ballot was not postmarked. It is undisputed that both ballots were received by the Region prior to the ballot count. (Decision, p. 3.)

### **III. THE REGIONAL DIRECTOR’S FINDINGS**

The Regional Director found:

The Manual clearly states that any ballot received by the Regional office before the count should be counted, “even if they are received after close of business on the return by date.” *See Casehandling Manual, Part Two, Representation Proceedings*, Section 11336.5(c) *citing Kerrville Bus Co.*, 257 NLRB 176, 177 (1981) (“Although the record here does not disclose any reason for [voters’] late mailing of their ballots, the Board has not regarded the absence of an excuse as a factor invariably requiring that a late ballot not be counted. In the instant case, we find most significant the fact that the ballots of both [voters] were received by the Board prior to the counting of ballots.”); *Premier Utility Services, LLC*, 363 NLRB No. 159, slip op. at 1 fn.1 (2016) (“The Board will generally permit mail ballots received after the due date, but before the count, to be opened and tallied.”); *Classic Valet Parking, Inc.*, 363 NLRB No. 23 (2015).

In this case, the ballots of Kellam and Martina were both received by the Board before the count. With regard to Martina’s ballot, which was not postmarked, I note that the Region did not receive ballots in person during this election. Martina’s ballot must have been received by mail. Under the provisions of the Board Manual and the Board’s precedent, these ballots should be opened and

counted. I overrule the challenges to the ballots of Kellam and Martina and direct that their ballots be opened and counted.

(Decision, p. 3.)

#### **IV. APPLICABLE LEGAL STANDARDS AND ANALYSIS**

##### **A. Under Longstanding NLRB Precedent, the Disputed Ballots Must Be Counted.**

CHM Sec. 11336.5(c) provides, “Ballots contained in envelopes received before the count should be counted, even if they are received after the close of business of the return date.” In *Kerrville Bus Co.*, 257 NLRB 176 (1981), the Board directed that ballots that arrived after the stipulated return date should be counted, where it was undisputed that the ballots were in the possession of the agency at the time of the count. The Regional Director’s Decision cites these authorities and multiple additional NLRB decisions that likewise support her determination that Kellam and Martina’s ballots must be counted. (Decision, p. 3.)

Counting the disputed ballots is wholly consistent with the established principles underlying the Board decisions cited by the Regional Director. In *Premier Utility, supra*, the Board majority explained:

[T]he Board’s Rule, permitting mail ballots received after the due date but before the count to be opened, while excluding ballots received after the ballot count, already provides a grace period for late-arriving ballots and strikes an appropriate balance between the interests of effectuating employee choice and the substantial policy considerations favoring the finality of elections.

363 NLRB No. 159, slip op. at 1 fn. 1. Contrary to the Union’s claims, there is no basis for distinguishing a “postmark deadline” from a “return deadline” to create a separate “rule” that would deny voters in a “postmark” case the built-in “grace period” that is otherwise available to them under NLRB law. The Board has long held that arguably “late” mail ballots are counted so long as they are received before the count, which is indisputably the case with regard to the ballots of Kellam and Martina.

## **B. Petitioner's Arguments Are Meritless.**

Notably, the Petitioner fails to cite a single NLRB decision in support of the novel proposition it advances in its Request: namely, that ballots received prior to the count should be voided if they do not comply with a postmark deadline in the DDE that was never communicated to voting employees, as was indisputably the case here.

Petitioner explicitly concedes no July 31 postmark requirement was stated in the materials that were sent to eligible voters. (Request, pp. 2-3.) Therefore, Petitioner cannot prove its claim that there were employees who might have voted “if they had known that the July 31 deadline was meaningless.” (Request, pp. 4-5.)

Regardless, this case involves a ballot that is postmarked one (1) day after the July 31 date, and a ballot with *no* postmark. It is possible Kellam placed his ballot in the mail on or prior to July 31, and was unaware it would not be postmarked until August 1. With regard to the ballot that is not postmarked at all, the Petitioner fails to articulate a rationale as to why it should be presumed that Martina did not put her ballot in the mail on or before July 31. Nor does Petitioner explain why Martina should be disenfranchised because the United States Postal Service (USPS) failed to postmark her ballot, through no fault of Martina. These facts only demonstrate the Board’s “grace period” described above is necessary to prevent employees from being disenfranchised as a result of the quirks and difficulties of the USPS.

Also unavailing is the Union’s argument that the date of receipt stamped by the Region on the outside of Martina’s envelope “should allow an estimate of the date of mailing.” (Request, p. 5.) In this case, most if not all of the ballots were stamped by the Region with a receipt date of August 12, 2020, despite having various postmark dates. (Apuzzo Decl. at ¶ 6.)

## V. CONCLUSION

The Regional Director's Decision to count the ballots of Kellam and Martina is consistent with established Board precedent and national labor policy. For all of these reasons, Brink's respectfully requests that the Board deny Petitioner's Request for Review.

Dated this 9th day of October 2020.

Respectfully submitted,

/s/ Eric C. Stuart

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# **ATTACHMENT 1**

BRINK'S GLOBAL SERVICES USA, INC.'S OPPOSITION TO  
PETITIONER'S REQUEST FOR REVIEW  
Case No. 29-RC-260969



**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

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**BRINK'S GLOBAL SERVICES USA, INC.,**

**Employer,**

**and**

**Case No. 29-RC-260969**

**LAW ENFORCEMENT SECURITY  
OFFICERS UNIONS (LEOSU),  
LAW ENFORCEMENT OFFICERS  
SECURITY AND POLICE BENEVOLENT  
ASSOCIATION (LEOS-PBA),**

**Petitioner**

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**PETITIONER'S REQUEST FOR REVIEW**

Pursuant to Section 102.69(c)(2) of the Board's Rules and Regulations, Petitioner Law Enforcement Security Officers Unions (LEOSU), Law Enforcement Officers Security and Police Benevolent Association (LEOS-PBA), by its undersigned counsel, files this Request for Review of the Regional Director's Report on Challenges issued on September 22, 2020. This Request is limited to the ballots cast by Sherob Kellam and Katharyne Martina.

A Request for Review is warranted because the Regional Director's decision to conduct a mail ballot election and the instructions the Regional Director issued to the parties and to eligible voters was inconsistent with the purposes of a mail ballot election. The Regional Director's Report ignores the requirement in the Decision and Direction of Election that ballots be postmarked by July 31.

One of the understated purposes of a Stipulated Election Agreement or a Direction of Election is that it specifies the closing of the representation campaign. In a manual election, campaigning ceases the minute the polls open. In a mail ballot election, the campaign ceases on either of three dates: (1) on the last day ballots must be postmarked; (2) on the date ballots must be submitted to the Region; or, (3) if no postmark date or due date is specified, on the day ballots are

counted. Neither the Union nor the Employer has any reason to campaign after the last ballot can be submitted. The Regional Director's Decision on Challenges interfered with the timing of the Petitioner's campaign.

### UNDISPUTED FACTS

On June 25, 2020, the Regional Director issued her Decision and Direction of Election after a hearing in which the only issue was whether to conduct a mail ballot election. After concluding that a mail ballot election was appropriate, the Regional Director established the following ground rules for the conduct of the election:

The election will be held by mail ballot. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 29, on **JULY 10, 2020**. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 29 office by close of business on **JULY 31, 2020**<sup>2</sup> The mail ballots will be counted by video conference, on a date and at a time and in a [*sic*] to be determined by the Regional Director after consultation with the parties.

<sup>2</sup>In order to be valid and counted, the returned ballots must be postmarked on or before July 31, 2020 and received in the Region 29 Office prior to the counting of the ballots.

[Attachment 1 hereto (emphasis in the original) at 4].

Unfortunately, the material sent to the eligible voters was inconsistent with the Decision and Direction of Election. The Instructions stated as follows:

**ELECTION DETAILS:** The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate voting unit by the office of the National Labor Relations Board, Region 29, on **Friday, July 10, 2020**. Voters must return their mail ballots so that they will be received by the National Labor Relations Board, Region 29, by close of business on **Friday, July 31, 2020**. Voters must sign the outside of the envelope in which the ballot is returned. **Any ballot received in an envelope that is not signed will be automatically void**

There was no date for the ballot count. [Attachment 1 hereto (emphasis in the original) at 7]. This instruction repeated the return date, but omitted the postmark date. Given public information about

mail delays, this would have required mailing at least several days before July 31, well after the July 31 requirement in the Decision and Direction of Election.

Unfortunately, the material distributed with the sample ballot contained the same omission:

**TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL  
OFFICE  
BY July 31, 2020**

[Attachment 1 hereto (emphasis in the original) at 9].

Apparently, no one noticed the discrepancy between the requirements on the Direction and those on the Instruction. There is no record that anyone asked the Region for consistency .

The Petitioner and the Employer both requested an immediate count. The Region responded that it would not even schedule the count until all ballots were received, presumably on July 31. In response to repeated requests by the Petitioner, the Region explained that the process had been delayed by “bumps at the Post Office.” Despite a request by the Employer, the Region would not describe or explain the “bumps.” On August 19, a Board Agent stated that the ballots were at his house in Brooklyn and suggested August 25 for the count. [Attachment 2 hereto].

On August 25, 2020, the Region counted the ballots. There were 17 votes for the Petitioner, 15 votes against the Petitioner, and five challenged ballots. [Attachment 2]. The Petitioner argued that the Region should reject the ballot cast by Sherob Kellam because the ballot was postmarked after the July 31, 2020 deadline. The Petitioner also argued that the Region should reject the ballot of Katharyne Martina because there was no postmark date on her ballot envelope.

On September 22, 2020, the Regional Director issued the Report on Challenges. With regard to the challenges concerning the ballots of Sherob Kellam and Katharyne Martina, the Regional Director stated as follows:

The Manual clearly states that any ballot received by the Regional office before the count should be counted, “even if they are received after close of business on the return by date.” See *Casehandling Manual, Part Two, Representation Proceedings*, Section 11336.5(c) citing *Kerrville Bus Co.*, 257 NLRB 176, 177 (1981) (“Although the record here does not disclose any reason for [voters’] late mailing of their ballots, the Board has not regarded the absence of an excuse as a factor invariably requiring that a late ballot not be counted. In the instant case, we find most significant the fact that the ballots of both [voters] were received by the Board prior to the counting of ballots.”); *Premier Utility Services, LLC*, 363 NLRB No. 159, slip op. at 1 fn.1 (2016) (“The Board will generally permit mail ballots received after the due date, but before the count, to be opened and tallied.”); *Classic Valet Parking, Inc.*, 363 NLRB No. 23 (2015).

[Attachment 3]

### ARGUMENT

While the Regional Director’s rationale accurately describes Board precedent and procedure where the Direction of Election does not contain a postmark requirement, it completely ignores the express requirement in the Decision and Direction of Election that all ballots be “postmarked on or before July 31, 2020.” The Decision and Direction of Election binds the parties, subject to their right to file a Request for Review. Why does it not equally bind the Regional Director who issued it?

The Board’s decisions on counting late-arriving ballots involve situations in which there was a “due date” but not a postmark deadline. Where, as here, the Region imposed both a postmark deadline and a fixed receipt deadline, there is no reason to allow exceptions to the postmark deadline. Even worse, the Region did not even address why it should ignore the requirement in its own Direction of Election in the absence of Board precedent.

If a Region can ignore this express requirement in its own Direction of Election, several questions must be considered. First, counting late-postmarked ballots discriminates against the 15 eligible voters who did not cast ballots. How many might have voted if they had known that the July

31 deadline was meaningless? No one knew the eventual date of the ballot count. Had Petitioner known that employees could cast and postmark ballots after July 31, it could have continued to solicit additional votes during the 25 days between the deadline and the eventual vote count. As shown in Exhibit 2, the date for the vote count was not set until August 18. There was plenty of time to continue campaigning. Given the closeness of the tally, even one or two additional votes for Petitioner could have been significant.

Second, if some requirements in the Direction of Election can be ignored, why not ignore the requirement that voters sign the outside of the envelope? Three ballots were rejected as void for not having a signature. Why not allow those three voters to testify at a Board hearing that they did cast ballots without signing the envelope?

The Regional Director found that “the ballot of Sherob Kellam on the ground that his ballot was postmarked after July 31, 2020.” Because the ballot was postmarked after July 31, his ballot should not be counted.

The Regional Director found that Katharyne Martina’s ballot had no postmark. Somehow it was received before August 25. But the Region marks ballot envelopes to show when they were received. The date of receipt should allow an estimate of the date of mailing. If the estimated date of mailing was after July 31, her vote should not be counted. More importantly, the Region should enforce the postmark rule and void her ballot. The Region should enforce its requirement without manufacturing excuses for violations.

Finally, it is clear that Post Office “bumps” caused the lengthy delay in counting the ballots, but neither party has been told the facts. If this delay encouraged the Regional Director to ignore the postmark requirement or allowed the counting of ballots which would not have been received

had the ballot count been conducted in the first week of August, as the Employer requested, the late ballots should not be counted. We do not want to set aside the election because of these “bumps,” but we do want to know if they affected the receipt of ballots.

For the reasons stated herein, the Board should grant this Request for Review and establish Board policy for those situations in which the Direction of Election includes a postmark requirement.

Respectfully submitted,

/s/ Jonathan Axelrod

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Counsel for the Petitioner

Dated September 28, 2020

### **CERTIFICATE OF SERVICE**

hereby certify that, on this 28<sup>th</sup> day of September 2020, I caused the foregoing Petitioner’s Objection to be electronically filed with the NLRB and have emailed it to the following counsel for the Employer and to the Regional Director:

Mark M. Stubley, Esq.

Eric Stuart, Esq.

Ethan Picone, Esq.

Kathy Drew King, Regional Director

/s/ Jonathan Axelrod

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

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BRINK’S GLOBAL SERVICES USA, INC.	)	
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Employer	)	
and	)	Case No. 29-RC-260969
	)	
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LAW ENFORCEMENT SECURITY	)	
OFFICERS UNIONS (LEOSU),	)	
LAW ENFORCEMENT OFFICERS	)	
SECURITY AND POLICE BENEVOLENT	)	
ASSOCIATON (LEOS-PBA)	)	
	)	
Petitioner	)	
	)	

**ORDER DENYING MOTION TO REOPEN THE HEARING AND  
DECISION AND DIRECTION OF ELECTION**

Brink’s Global Services USA, Inc., herein called the Employer, provides cash management logistic solutions and secure transportation services to banks, retailers, and other commercial and governmental agencies in the United States and abroad. On May 29, 2020<sup>1</sup> Law Enforcement Security Officers Unions (LEOSU) Law Enforcement and Police Benevolent Association (LEOS-PBA) (“the Petitioner”) filed a petition under Section 9(c) of the National Labor Relations Act, seeking to represent all full-time and regular part-time drivers, messengers, vault clerks, and cashiers performing guard functions as defined by Section 9(b)(3) of the Act, employed by the Employer at and out of its facility located at 184-45 147<sup>th</sup> Avenue, Suite 101, Springfield Gardens, New York, but excluding all other employees, including managerial employees, office employees, maintenance employees, customer services representatives, dispatchers, accounting employees, and supervisors as defined in Section 2(11) of the Act.

A hearing was held before Sarah Hurley, a hearing officer of the National Labor Relations Board.

The only issue at the hearing was whether to conduct a manual or a mail ballot election. For the reasons explained below, I will direct that the election be conducted by mail ballot.

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<sup>1</sup> All dates hereinafter are in 2020 unless otherwise indicated.

### The Employer's Argument Regarding Manual Election

At the hearing, the Employer contended that a manual election would be appropriate in this case.

Whether an election is to be conducted by mail, manually, or some other method is an administrative matter to be determined by the Regional Director. *National Van Lines*, 120 NLRB 1343 (1958). Traditionally, most Board elections are conducted by manual voting, and there is a presumption in favor of conducting elections in this manner. See Section 11301.2, *Board Casehandling Manual, Part Two, Representation Proceedings*. However, when certain factors are present, this presumption may be overcome. In *San Diego Gas & Electric*, 325 NLRB 1143 (1998), the Board recognized that mail ballot elections are appropriate under specific, well-settled guidelines, such as where employees are scattered or where there is a strike, lockout, or picketing in place. The Board further found that a Regional Director may consider additional relevant factors when contemplating when to conduct a mail ballot election and that "extraordinary circumstances" could permit a Regional Director to do so. See *San Diego Gas & Electric*, 325 NLRB at 1145. The Board has recognized that the COVID 19 pandemic presents such an extraordinary circumstance. See, e.g., *Atlas Pacific Engineering Co.*, 27-RC-258742 (NLRB May 8, 2020).

The Employer represented that it could provide a clean, safe polling place in which a manual election could occur with personal protective equipment, such as masks and gloves, and sufficient space for social distancing. Despite these proposed safety measures, I have determined that an in-person manual election under these circumstances poses significant and unnecessary risks to the health and safety of Board Agents, Party representatives, voters, observers and the public. The conduct of a manual election invariably requires participants to come within fewer than six feet of one another, while social distancing guidelines provided by Federal, State and Local authorities recommend that individuals remain at least six feet apart. Under the Board's manual election procedures, Board Agents conducting the election and election observers are required to spend the duration of the polling session and ballot count process together in close proximity within a confined space. Even with the Employer's proposed efforts to encourage election participants to practice social distancing, Board Agents and observers will likely have to interact with voters and/or Party representatives who may have questions or who may wish to raise issues about the conduct of the election. These procedures necessarily carry the risk of exposure for employees at the Employer's facility, party representatives, Board personnel, their families, and the community.

Conducting the election in this case by mail ballot, however, significantly reduces these risks. Conducting a mail ballot election will enable Board Agents, voters, observers and Party representatives to maintain safe social distancing throughout the polling process. I am considering measures to limit the number of people who may participate in the ballot count and other methods of maintaining social distancing between participants, including conducting the count remotely using videoconference technology. Such safety measures, which can be enacted for a mail ballot election in accordance with Board procedures, will ensure that this election is conducted with minimal risk to the participants' personal safety and public health.

During the hearing, the Employer also noted that New York City has begun its reopening plan. After the hearing closed, the Employer filed a Motion to Reopen the Record on June 22. The Employer argues that the hearing should be reopened to accept evidence of New York City's move into Phase 2.



The Employer cites “Reopening New York,” a New York State brochure produced by New York State which explains procedures to be followed to deal with COVID 19. Although certain restrictions have been eased in New York City, the brochure makes clear that individuals must still maintain a distance of six feet “at all times, unless safety of the core activity requires a shorter distance.” That cannot be accomplished during a manual election. Therefore, I hereby deny the Employer’s Motion to Reopen the Record, and I find that it would be safer for party representatives, Board personnel, their families, and the community to conduct this election by mail ballot.

I find that the current COVID-19 pandemic presents extraordinary circumstances requiring a mail ballot election in this case. Given the significant health risks to voters, observers, Board Agents, party representatives and the general public with a manual election, which often require person-to-person contact, a mail ballot is warranted here.

### **CONCLUSIONS AND FINDINGS**

Based upon the entire record in this proceeding, the undersigned finds and concludes as follows:

1. I find that the rulings made by the Hearing Officer at the hearing are free from prejudicial error and hereby are affirmed.

2. The record indicates that Brink’s Global Services USA, Inc., a Delaware corporation, with its principal office located in New York, New York, and a facility located at 184-45 147<sup>th</sup> Avenue, Suite 101, Springfield Gardens, New York, provides cash management logistic solutions and secure transportation services to banks, retailers, and other commercial and governmental agencies in the United States and abroad. During the past year preceding the filing of this petition, a representative period, the Employer provided services valued in excess of \$50,000 to customers located outside New York State.

Based on the foregoing, I find that Brink’s Global Services USA, Inc. is engaged in commerce within the meaning of the Act. It will therefore effectuate the purposes of the Act to assert jurisdiction in this case.

3. I hereby find that Law Enforcement Security Officers Unions (LEOSU) Law Enforcement and Police Benevolent Association (LEOS-PBA) is a labor organization as defined in Section 2(5) of the Act and is qualified to represent guards within the meaning of Section 9(b)(3) of the Act.

4. A question affecting commerce exists concerning the representation of certain employees of the Employers within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. I find that the following employees constitute a unit appropriate for the purposes of collective bargaining:

All full-time and regular part-time drivers, messengers, vault clerks, and cashiers performing guard functions as defined by Section 9(b)(3) of the Act, employed by the

Employer at and out of its facility located at 184-45 147<sup>th</sup> Avenue, Suite 101, Springfield Gardens, New York, but excluding all other employees, including managerial employees, office employees, maintenance employees, customer services representatives, dispatchers, accounting employees, and supervisors as defined in Section 2(11) of the Act.

## **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct secret ballot elections among the employees in the unit found appropriate above. Employees will vote whether they wish to be represented for purposes of collective bargaining by Law Enforcement Security Officers Unions (LEOSU) Law Enforcement and Police Benevolent Association (LEOS-PBA).

### **A. Election Details**

The election will be held by mail ballot. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 29, on **JULY 10, 2020**. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 29 office by close of business on **JULY 31, 2020**<sup>2</sup>. The mail ballots will be counted by video conference, on a date and at a time and in a to be determined by the Regional Director after consultation with the parties.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Board Agent Sarah Hurley via phone at (718) 765-6200 or via e-mail at [sarah.hurley@nrlrb.gov](mailto:sarah.hurley@nrlrb.gov) by no later than 5:00 p.m. on July 17, 2020 in order to arrange for another mail ballot kit to be sent to that employee.

### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending **June 21, 2020**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

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<sup>2</sup> In order to be valid and counted, the returned ballots must be postmarked on or before July 31, 2020 and received in the Region 29 Office prior to the counting of the ballots.

### C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **June 29, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

### D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the

nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.


### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website. To E-File the request for review, go to [www.nlrb.gov](http://www.nlrb.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Brooklyn, New York, on June 25, 2020.



---

Kathy Drew King  
Regional Director, Region 29  
National Labor Relations Board  
Two MetroTech Center, 5th Floor  
Brooklyn, New York 11201

Attachments:

Notice of Election



United States of America  
National Labor Relations Board



## NOTICE OF ELECTION

### INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL

**PURPOSE OF ELECTION:** This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

**SECRET BALLOT:** The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

**ELIGIBILITY RULES:** Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

**CHALLENGE OF VOTERS:** An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

**AUTHORIZED OBSERVERS:** Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

**ELECTION DETAILS:** The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate voting unit by the office of the National Labor Relations Board, Region 29, on **Friday, July 10, 2020**. Voters must return their mail ballots so that they will be received by the National Labor Relations Board, Region 29, by close of business on **Friday, July 31, 2020**. Voters must sign the outside of the envelope in which the ballot is returned. **Any ballot received in an envelope that is not signed will be automatically void.**

Any employee who believes that he/she is eligible to vote but did not receive a ballot or who otherwise requires a duplicate mail ballot kit should communicate immediately with the National Labor Relations Board by either calling the Region 29 Office at 718-765-6200 or our national toll-free line at 1-844- 762-NLRB (1-844- 762-6572), no later than **Friday, July 17, 2020**.

Due to the extraordinary circumstances of COVID-19 and the directions of state and local authorities including but not limited to Shelter in Place orders, travel restrictions, social distancing and limits on the size of gatherings of individuals, the ballot count will take place on a date and in a manner to be determined by the Regional Director.

All ballots will be commingled and counted on a date and time to be determined by the Regional Director. In order to be valid and counted, the returned ballots must be received by the Region 29 Office prior to the counting of the ballots.

The Region will provide notice to the parties of the scheduled date for the ballot count at least 24 hours prior to the count. The count will take place virtually on a platform such as Skype, WebEx, etc., to be determined by the Regional Director. The Parties agree that each party will be allowed to have one observer attend the virtual ballot count.



United States of America  
National Labor Relations Board



NOTICE OF ELECTION

INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL

VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time drivers, messengers, vault clerks, and cashiers performing guard functions as defined by Section 9(b)(3) of the Act, employed by the Employer at and out of its facility located at 184-45 147th Avenue, Suite 101, Springfield Gardens, New York, who were employed by the Employer during the payroll period ending June 21, 2020.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees including, managerial employees, office employees, maintenance employees, customer service representatives, dispatchers, accounting employees, and supervisors as defined in Section 2(11) of the Act.



UNITED STATES OF AMERICA  
ESTADOS UNIDOS DE AMERICA  
National Labor Relations Board  
Junta Nacional De Relaciones Del Trabajo  
29-RC-260969



OFFICIAL SECRET BALLOT  
PAPELETA SECRETA OFICIAL  
For certain employees of  
Para Ciertos Empleados De  
BRINK'S GLOBAL SERVICES USA, INC.

Do you wish to be represented for purposes of collective bargaining by  
¿Desea usted estar representado para los fines de negociar colectivamente por  
LAW ENFORCEMENT SECURITY OFFICERS UNIONS LEOSU, LAW  
ENFORCEMENT AND POLICE BENEVOLENT ASSOCIATION (LEOS-  
PBA)?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE  
MARQUE CON UNA "X" DENTRO DEL CUADRO DE SU SELECCIÓN

YES SI	NO NO
-----------	----------

sample

DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.  
MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.

NO FIRME O ESCRIBA SU NOMBRE O INCLUYA OTRAS MARCAS QUE REVELARÍAN SU IDENTIDAD. MARQUE UNA "X" EN EL CUADRADO DE SU ELECCIÓN SOLAMENTE. Si hace marcas dentro, o en cualquier lugar alrededor, en más de un cuadrado, puede solicitar una nueva papeleta consultando las instrucciones adjuntas. Si envía una papeleta con marcas en el interior, o en cualquier lugar alrededor, en más de un cuadrado, su papeleta no será contada.

Vea las Instrucciones incluidas.

The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.

La Junta Nacional de Relaciones del Trabajo no respalda a ninguna de las opciones en esta elección. Cualquier marca que se pueda ver en cualquier muestra de la papeleta no fue hecha por la Junta Nacional de Relaciones del Trabajo.

United States of America  
National Labor Relations Board

**Instructions to Eligible Employees Voting  
By United States Mail**



**INSTRUCTIONS**

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE YELLOW RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call the Regional Office at:

718-765-6200

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**TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE**

**BY** July 31, 2020

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# RIGHTS OF EMPLOYEES

**Under the National Labor Relations Act, employees have the right:**

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

**It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.**

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

**The following are examples of conduct that interfere with the rights of employees and may result in the setting aside of the election:**

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

**The National Labor Relations Board protects your right to a free choice**

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



**NATIONAL LABOR RELATIONS BOARD**  
*an agency of the*  
**UNITED STATES GOVERNMENT**





**United States of America  
National Labor Relations Board  
NOTICE OF ELECTION**



**INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL**

**RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:**

- **Form, join, or assist a union**
- **Choose representatives to bargain with your employer on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**
- **In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).**

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

**The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.**

**If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.**

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- **Threatening loss of jobs or benefits by an Employer or a Union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched**
- **Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a Union or an Employer to influence their votes**

The National Labor Relations Board protects your right to a free choice.

**Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.**

**Anyone with a question about the election may contact the NLRB Office at (718)765-6200 or visit the NLRB website [www.nlr.gov](http://www.nlr.gov) for assistance.**



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Stuart, Eric C.** <eric.stuart@ogletree.com>

Mon, Jul 27, 2020 at 3:14 PM

To: "Hurley, Sarah N." &lt;Sarah.Hurley@nlrb.gov&gt;, "leosunions@gmail.com" &lt;leosunions@gmail.com&gt;

Sarah,

We would like to set a date for the ballot count in the above matter.

The Employer proposes any date during the week of August 3, 2020.

Please advise.

Thank you.

**Eric C. Stuart | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**

10 Madison Avenue, Suite 400 | Morristown, NJ 07960 | Telephone: 973-630-2307 | Fax: 973-656-1611

[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com) | [www.ogletree.com](http://www.ogletree.com) | [Bio](#)

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**From:** Hurley, Sarah N. <[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)>**Sent:** Monday, June 22, 2020 12:25 PM**To:** Stuart, Eric C. <[Eric.Stuart@ogletreedeakins.com](mailto:Eric.Stuart@ogletreedeakins.com)>; [leosunions@gmail.com](mailto:leosunions@gmail.com)**Subject:** Brinks Case No. 29-RC-260969

Good afternoon Gentlemen,

Please confirm that all employees can read and understand English. If not, please inform me of which other languages would be necessary.

Thank you.

**Sarah Hurley | Board Agent**

National Labor Relations Board, Region 29

Two MetroTech Center, Fifth Floor

Brooklyn, New York 11201-3838

(Direct) 718-765-6200 | (Cell) 202-262-9841

(Main) 718-330-7713 | (Fax) 718-330-7579 | [www.nlrb.gov](http://www.nlrb.gov)[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)

Pronouns: she/her/hers

*This transmission is intended only for the proper recipient(s). It is confidential and may contain attorney-client privileged information. If you are not the proper recipient, please notify the sender immediately and delete this message. Any unauthorized review, copying, or use of this message is prohibited.*



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Hurley, Sarah N.** <Sarah.Hurley@nlrb.gov>

Tue, Jul 28, 2020 at 5:05 PM

To: Steve Maritas &lt;leosunions@gmail.com&gt;, "Stuart, Eric C." &lt;eric.stuart@ogletree.com&gt;

Good afternoon Gentlemen:

The Region's policy for scheduling mail ballot counts is: once the ballots are in my possession, I will reach out to schedule the count. Ballots need to be collected and mailed to me, which is likely to take time. This helps avoid confusion and rescheduling.

Once we determine when the count will be, I will send you a Zoom for Government invitation for the count.

Thank you.

Sarah

[Quoted text hidden]



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Steve Maritas** <leosunions@gmail.com>

Wed, Aug 5, 2020 at 12:40 PM

To: "Hurley, Sarah N." &lt;Sarah.Hurley@nlrb.gov&gt;

Sarah when do you think we will be having the vote count. These guys are driving me nuts 🤔

Sent from my iPhone

On Jul 28, 2020, at 5:05 PM, Hurley, Sarah N. <[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)> wrote:

[Quoted text hidden]



LEOSU UNION <leosunions@gmail.com>

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## Brinks Case No. 29-RC-260969

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**Steve Maritas** <leosunions@gmail.com>

Thu, Aug 6, 2020 at 1:35 PM

To: "Hurley, Sarah N." <Sarah.Hurley@nlrb.gov>

Sarah when are we doing the ballot count?

Sent from my iPhone

On Jul 28, 2020, at 5:05 PM, Hurley, Sarah N. <Sarah.Hurley@nlrb.gov> wrote:

Good afternoon Gentlemen:

[Quoted text hidden]



LEOSU UNION <leosunions@gmail.com>

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## Brinks Case No. 29-RC-260969

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**Hurley, Sarah N.** <Sarah.Hurley@nlrb.gov>  
To: Steve Maritas <leosunions@gmail.com>

Thu, Aug 6, 2020 at 2:00 PM

I have a meeting on Monday to discuss. I will update you then.

[Quoted text hidden]



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**LEOSU UNION** <leosunions@gmail.com>

Tue, Aug 11, 2020 at 1:10 PM

To: "Hurley, Sarah N." &lt;Sarah.Hurley@nrlb.gov&gt;

Sarah what is going on with this VOTE COUNT????

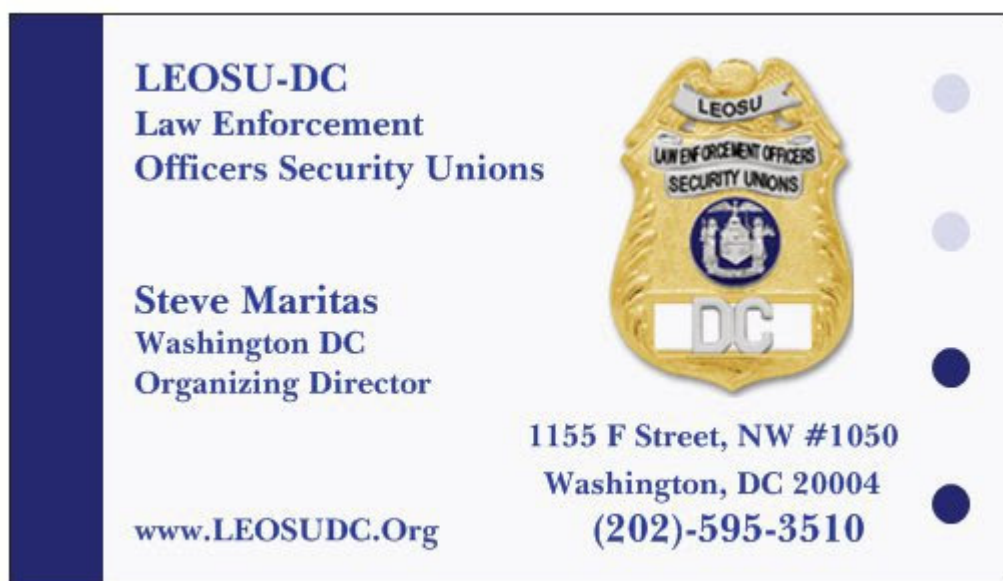
[Quoted text hidden]

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Fighting for Respect for Our Members Each and Everyday

**Steve Maritas**

LEOSU Organizing Director



LEOSU Serving the Northeast &amp; Midwest

1155 F Street, NW #1050  
Washington, DC 20004220 Old Country Road #2  
Mineola, NY 11501202-595-3510 (DC Office & Fax)  
800-516-0094 (Organizing)  
202-486-8558 (Cellular)

[Quoted text hidden]





LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Hurley, Sarah N.** <Sarah.Hurley@nlrb.gov>

Tue, Aug 11, 2020 at 6:19 PM

To: Steve Maritas &lt;leosunions@gmail.com&gt;, "Stuart, Eric C." &lt;eric.stuart@ogletree.com&gt;

Good evening Gentlemen:

There have been some bumps with the Post Office, which are likely to be resolved this week. I am hopeful that I will be reaching out to you next week to schedule the count in the above case.

[Quoted text hidden]



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Hurley, Sarah N.** <Sarah.Hurley@nlrb.gov>

Tue, Aug 18, 2020 at 2:20 PM

To: Steve Maritas &lt;leosunions@gmail.com&gt;, "Stuart, Eric C." &lt;eric.stuart@ogletree.com&gt;

Cc: "Mickley, John" &lt;John.Mickley@nlrb.gov&gt;

Good afternoon Gentlemen:

My colleague, John Mickley will conduct the count in the above case. He will reach out to you later this week to discuss logistics.

Thank you.

Sarah

[Quoted text hidden]



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Stuart, Eric C.** <eric.stuart@ogletree.com>

Tue, Aug 18, 2020 at 3:51 PM

To: "Hurley, Sarah N." &lt;Sarah.Hurley@nlrb.gov&gt;, Steve Maritas &lt;leosunions@gmail.com&gt;

Cc: "Mickley, John" &lt;John.Mickley@nlrb.gov&gt;

Ms. Hurley,

Can you please let me know whether the ballots were sent to you in Atlanta and where they are located now?

Also, please explain the "bumps with the Post Office, which are likely to be resolved this week" that you mentioned in your August 11, 2020 email to the parties (below).

Specifically, what are the "bumps" and how were they resolved?

In connection with today's email, where is Mr. Mickley located and where will the ballots be counted?

Thank you.

**Eric C. Stuart | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**

10 Madison Avenue, Suite 400 | Morristown, NJ 07960 | Telephone: 973-630-2307 | Fax: 973-656-1611

[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com) | [www.ogletree.com](http://www.ogletree.com) | [Bio](#)

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**From:** Hurley, Sarah N. <[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)>**Sent:** Tuesday, August 18, 2020 2:20 PM**To:** Steve Maritas <[leosunions@gmail.com](mailto:leosunions@gmail.com)>; Stuart, Eric C. <[Eric.Stuart@ogletreedeakins.com](mailto:Eric.Stuart@ogletreedeakins.com)>**Cc:** Mickley, John <[John.Mickley@nlrb.gov](mailto:John.Mickley@nlrb.gov)>**Subject:** RE: Brinks Case No. 29-RC-260969

***[Caution: Email received from external source]***

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[Quoted text hidden]



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Mickley, John** <John.Mickley@nlrb.gov>

Wed, Aug 19, 2020 at 10:42 AM

To: "Stuart, Eric C." &lt;eric.stuart@ogletree.com&gt;, "Hurley, Sarah N." &lt;Sarah.Hurley@nlrb.gov&gt;, Steve Maritas &lt;leosunions@gmail.com&gt;

Good morning everyone,

I have the ballots at my home in Brooklyn. I will conduct the count here. The ballots did not go to Atlanta. I'd like to conduct the count next Tuesday 8/25 or next Thursday 8/27. I am available any time on those days. Please reply all to this email with your availability and preferred times as soon as possible. After we've found an agreeable time I will circulate a Zoom meeting invite.

Please let me know if you have any questions,

John Mickley

Field Attorney

National Labor Relations Board – Region 29

[2 MetroTech Center Suite 5100](#)

[Brooklyn, NY 11201](#)

[Office: 718-765-6211](#)

[Cell: 202-394-9227](#)

**All case documents must now be e-filed. Please e-file your documents at <https://apps.nlrb.gov/myAccount/#/FileCaseDocument/TermsConditions>**

[Quoted text hidden]



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Stuart, Eric C.** <eric.stuart@ogletree.com>

Wed, Aug 19, 2020 at 11:01 AM

To: LEOSU UNION &lt;leosunions@gmail.com&gt;, "Mickley, John" &lt;John.Mickley@nlrb.gov&gt;

Cc: "Hurley, Sarah N." &lt;Sarah.Hurley@nlrb.gov&gt;, "Agraz, Rodolfo R. (Fito)" &lt;Fito.Agraz@ogletreedeakins.com&gt;

The Employer is available Tuesday 8/25 as well from 10:30 am - 1 pm and after 3 pm.

Please also send the Zoom invite to Fito Agraz, copied above.

Thank you.

**Eric C. Stuart | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**

10 Madison Avenue, Suite 400 | Morristown, NJ 07960 | Telephone: 973-630-2307 | Fax: 973-656-1611

eric.stuart@ogletree.com | www.ogletree.com | Bio

**From:** LEOSU UNION <leosunions@gmail.com>**Sent:** Wednesday, August 19, 2020 10:50 AM**To:** Mickley, John <John.Mickley@nlrb.gov>**Cc:** Stuart, Eric C. <Eric.Stuart@ogletreedeakins.com>; Hurley, Sarah N. <Sarah.Hurley@nlrb.gov>**Subject:** Re: Brinks Case No. 29-RC-260969***[Caution: Email received from external source]***

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Tuesday

On Wed, Aug 19, 2020 at 10:42 AM Mickley, John <John.Mickley@nlrb.gov> wrote:

Good morning everyone,

I have the ballots at my home in Brooklyn. I will conduct the count here. The ballots did not go to Atlanta. I'd like to conduct the count next Tuesday 8/25 or next Thursday 8/27. I am available any time on those days. Please reply all to this email with your availability and preferred times as soon as possible. After we've found an agreeable time I will circulate a Zoom meeting invite.

Please let me know if you have any questions,

John Mickley

Field Attorney

National Labor Relations Board – Region 29

2 MetroTech Center Suite 5100

Brooklyn, NY 11201

Office: 718-765-6211

Cell: 202-394-9227

**All case documents must now be e-filed. Please e-file your documents at** <https://apps.nlr.gov/myAccount/#!/FileCaseDocument/TermsConditions>

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**From:** Stuart, Eric C. <[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com)>  
**Sent:** Tuesday, August 18, 2020 3:51 PM  
**To:** Hurley, Sarah N. <[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)>; Steve Maritas <[leosunions@gmail.com](mailto:leosunions@gmail.com)>  
**Cc:** Mickley, John <[John.Mickley@nlrb.gov](mailto:John.Mickley@nlrb.gov)>  
**Subject:** RE: Brinks Case No. 29-RC-260969

Ms. Hurley,

Can you please let me know whether the ballots were sent to you in Atlanta and where they are located now?

Also, please explain the "bumps with the Post Office, which are likely to be resolved this week" that you mentioned in your August 11, 2020 email to the parties (below).

Specifically, what are the "bumps" and how were they resolved?

In connection with today's email, where is Mr. Mickley located and where will the ballots be counted?

Thank you.

**Eric C. Stuart | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**  
10 Madison Avenue, Suite 400 | Morristown, NJ 07960 | Telephone: 973-630-2307 | Fax: 973-656-1611  
[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com) | [www.ogletree.com](http://www.ogletree.com) | Bio

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**From:** Hurley, Sarah N. <[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)>  
**Sent:** Tuesday, August 18, 2020 2:20 PM  
**To:** Steve Maritas <[leosunions@gmail.com](mailto:leosunions@gmail.com)>; Stuart, Eric C. <[Eric.Stuart@ogletreedeakins.com](mailto:Eric.Stuart@ogletreedeakins.com)>  
**Cc:** Mickley, John <[John.Mickley@nlrb.gov](mailto:John.Mickley@nlrb.gov)>  
**Subject:** RE: Brinks Case No. 29-RC-260969

**[Caution: Email received from external source]**

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Good afternoon Gentlemen:

My colleague, John Mickley will conduct the count in the above case. He will reach out to you later this week to discuss logistics.

Thank you.

Sarah

---

**From:** Hurley, Sarah N.

**Sent:** Tuesday, August 11, 2020 6:19 PM

**To:** 'Steve Maritas' <[leosunions@gmail.com](mailto:leosunions@gmail.com)>; 'Stuart, Eric C.' <[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com)>

**Subject:** RE: Brinks Case No. 29-RC-260969

Good evening Gentlemen:

There have been some bumps with the Post Office, which are likely to be resolved this week. I am hopeful that I will be reaching out to you next week to schedule the count in the above case.

Thank you.

Sarah

**Sarah Hurley | Board Agent**

National Labor Relations Board, Region 29

Two MetroTech Center, Fifth Floor

Brooklyn, New York 11201-3838

(Direct) 718-765-6200 | (Cell) 202-262-9841

(Main) 718-330-7713 | (Fax) 718-330-7579 | [www.nlrb.gov](http://www.nlrb.gov)

[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)

Pronouns: she/her/hers

**From:** Hurley, Sarah N.  
**Sent:** Tuesday, July 28, 2020 5:06 PM  
**To:** Steve Maritas <[leosunions@gmail.com](mailto:leosunions@gmail.com)>; Stuart, Eric C. <[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com)>  
**Subject:** RE: Brinks Case No. 29-RC-260969

Good afternoon Gentlemen:

The Region's policy for scheduling mail ballot counts is: once the ballots are in my possession, I will reach out to schedule the count. Ballots need to be collected and mailed to me, which is likely to take time. This helps avoid confusion and rescheduling.

Once we determine when the count will be, I will send you a Zoom for Government invitation for the count.

Thank you.

Sarah

**Sarah Hurley | Board Agent**

National Labor Relations Board, Region 29

Two MetroTech Center, Fifth Floor

Brooklyn, New York 11201-3838

(Direct) 718-765-6200 | (Cell) 202-262-9841

(Main) 718-330-7713 | (Fax) 718-330-7579 | [www.nlr.gov](http://www.nlr.gov)

[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)

Pronouns: she/her/hers

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**From:** Steve Maritas <[leosunions@gmail.com](mailto:leosunions@gmail.com)>  
**Sent:** Monday, July 27, 2020 3:22 PM  
**To:** Stuart, Eric C. <[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com)>  
**Cc:** Hurley, Sarah N. <[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)>  
**Subject:** Re: Brinks Case No. 29-RC-260969

That's ok with me

Sent from my iPhone



On Jul 27, 2020, at 3:14 PM, Stuart, Eric C. <[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com)> wrote:

Sarah,

We would like to set a date for the ballot count in the above matter.

The Employer proposes any date during the week of August 3, 2020.

Please advise.

Thank you.

**Eric C. Stuart | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**

10 Madison Avenue, Suite 400 | Morristown, NJ 07960 | Telephone: 973-630-2307 | Fax: 973-656-1611

[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com) | [www.ogletree.com](http://www.ogletree.com) | Bio

---

**From:** Hurley, Sarah N. <[Sarah.Hurley@nrlb.gov](mailto:Sarah.Hurley@nrlb.gov)>

**Sent:** Monday, June 22, 2020 12:25 PM

**To:** Stuart, Eric C. <[Eric.Stuart@ogletreedekins.com](mailto:Eric.Stuart@ogletreedekins.com)>; [leosunions@gmail.com](mailto:leosunions@gmail.com)

**Subject:** Brinks Case No. 29-RC-260969

Good afternoon Gentlemen,

Please confirm that all employees can read and understand English. If not, please inform me of which other languages would be necessary.

Thank you.

**Sarah Hurley | Board Agent**

National Labor Relations Board, Region 29

Two MetroTech Center, Fifth Floor

Brooklyn, New York 11201-3838

(Direct) 718-765-6200 | (Cell) 202-262-9841

(Main) 718-330-7713 | (Fax) 718-330-7579 | [www.nrlb.gov](http://www.nrlb.gov)

[Sarah.Hurley@nrlb.gov](mailto:Sarah.Hurley@nrlb.gov)

Pronouns: she/her/hers

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Fighting for Respect for Our Members Each and Everyday

# Steve Maritas

LEOSU Organizing Director



LEOSU Serving the Northeast & Midwest

1155 F Street, NW #1050

Washington, DC 20004

220 Old Country Road #2

Mineola, NY 11501

202-595-3510 (DC Office & Fax)

800-516-0094 (Organizing)

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Law Firm Beins, Axelrod, P.C.

Jonathan G. Axelrod

1717 K Street N.W. Suite 1120

Washington DC 20006

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Telecopier: 202-328-7030

Website: <http://www.beinsaxelrod.com/>

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LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Mickley, John** <John.Mickley@nlrb.gov>

Wed, Aug 19, 2020 at 11:28 AM

To: "Stuart, Eric C." &lt;eric.stuart@ogletree.com&gt;, LEOSU UNION &lt;leosunions@gmail.com&gt;

Cc: "Hurley, Sarah N." &lt;Sarah.Hurley@nlrb.gov&gt;, "Agraz, Rodolfo R. (Fito)" &lt;Fito.Agraz@ogletreedeakins.com&gt;

We'll do the count at 10:30 am on Tuesday. Zoom invitation will follow.

---

**From:** Stuart, Eric C. <eric.stuart@ogletree.com>**Sent:** Wednesday, August 19, 2020 11:01:27 AM**To:** LEOSU UNION <leosunions@gmail.com>; Mickley, John <John.Mickley@nlrb.gov>**Cc:** Hurley, Sarah N. <Sarah.Hurley@nlrb.gov>; Agraz, Rodolfo R. (Fito) <Fito.Agraz@ogletreedeakins.com>

[Quoted text hidden]

[Quoted text hidden]



LEOSU UNION &lt;leosunions@gmail.com&gt;

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**Brinks Case No. 29-RC-260969**

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**Mickley, John** <John.Mickley@nlrb.gov>

Thu, Aug 20, 2020 at 1:28 PM

To: "Stuart, Eric C." &lt;eric.stuart@ogletree.com&gt;, LEOSU UNION &lt;leosunions@gmail.com&gt;

Cc: "Hurley, Sarah N." &lt;Sarah.Hurley@nlrb.gov&gt;, "Agraz, Rodolfo R. (Fito)" &lt;Fito.Agraz@ogletreedeakins.com&gt;

Hi everyone,

Please see the below Zoom information. The ballot count is open to the public, so please forward this invite to employees or anyone else interested in joining. Let me know if you have any questions.

John

Zoom R29 is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1605908929?pwd=TDBGaWJYNUROYjZ4bVA4R29kaDNCUT09>

Meeting ID: 160 590 8929

Passcode: 902016

One tap mobile

+16692545252,,1605908929#,,,,,0#,,902016# US (San Jose)

+16468287666,,1605908929#,,,,,0#,,902016# US (New York)

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

833 568 8864 US Toll-free

Meeting ID: 160 590 8929

Passcode: 902016

Find your local number: <https://www.zoomgov.com/u/aDt2PtTR8>

Join by SIP

[1605908929@sip.zoomgov.com](mailto:1605908929@sip.zoomgov.com)

Join by H.323

161.199.138.10 (US West)

161.199.136.10 (US East)

Meeting ID: 160 590 8929

Passcode: 902016

Join by Skype for Business

<https://www.zoomgov.com/skype/1605908929>

---

**From:** Stuart, Eric C. <[eric.stuart@ogletree.com](mailto:eric.stuart@ogletree.com)>**Sent:** Wednesday, August 19, 2020 11:01 AM**To:** LEOSU UNION <[leosunions@gmail.com](mailto:leosunions@gmail.com)>; Mickley, John <[John.Mickley@nlrb.gov](mailto:John.Mickley@nlrb.gov)>**Cc:** Hurley, Sarah N. <[Sarah.Hurley@nlrb.gov](mailto:Sarah.Hurley@nlrb.gov)>; Agraz, Rodolfo R. (Fito) <[Fito.Agraz@ogletreedeakins.com](mailto:Fito.Agraz@ogletreedeakins.com)>

9/23/2020

Gmail - Brinks Case No. 29-RC-260969

[Quoted text hidden]

[Quoted text hidden]

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

	)	
BRINK'S GLOBAL SERVICES USA, INC.	)	
	)	
	)	
	)	
Employer	)	
and	)	Case No. 29-RC-260969
	)	
	)	
LAW ENFORCEMENT SECURITY	)	
OFFICERS UNION (LEOSU), LAW	)	
ENFORCEMENT OFFICERS SECURITY	)	
AND POLICE BENEVOLENT	)	
ASSOCIATION (LEOS-PBA)	)	
	)	
Petitioner	)	
	)	

**REPORT ON CHALLENGES**

On May 29, 2020,<sup>1</sup> Law Enforcement Security Officers Union (LEOSU), Law Enforcement Officers Security and Police Benevolent Association (LEOS-PBA) ("Petitioner"), filed a petition in this matter seeking to represent certain employees employed by Brink's Global Services USA, Inc. ("Employer").

Pursuant to a Decision and Direction of Election, issued by the undersigned on June 25, an election by mail ballot was conducted on July 10 among the employees in the following unit:

All full-time and regular part-time drivers, messengers, vault clerks, and cashiers performing guard functions as defined by Section 9(b)(3) of the Act, employed by the Employer at and out of its facility located at 184-45 147<sup>th</sup> Avenue, Suite 101, Springfield Gardens, New York, but excluding all other employees, including managerial employees, office employees, maintenance employees, customer services representatives, dispatchers, accounting employees, and supervisors as defined in Section 2(11) of the Act.

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<sup>1</sup> All dates hereinafter are in 2020 unless otherwise indicated.

The Tally of Ballots made available to the parties at the conclusion of the election pursuant to the Board's Rules and Regulations, showed the following results:

Approximate number of eligible voters	52
Number of void ballots	3
Number of ballots cast for the Union	17
Number of votes cast against participating labor organization	15
Number of valid votes counted	32
Number of challenged ballots	5
Number of valid votes counted plus challenged ballots	37

Challenges are sufficient in number to affect the results of the election.

The Petitioner challenged the ballot of Lorenzo Crowe because he requested a duplicate ballot be sent to a new address; the Petitioner challenged the ballot of Michael Cuzco on the ground that he requested a duplicate ballot but returned his original ballot. Petitioner challenged the ballot of Sherob Kellam on the ground that his ballot was postmarked after July 31, 2020; Petitioner challenged the ballot of Katharyne Martina on the ground that her ballot was not postmarked. The Employer challenged the ballot of an unknown voter who had marked the sample ballot from the Notice of Election instead of the official ballot.

The Petitioner and the Employer filed timely objections to the election.

Pursuant to Section 102.69 of the Board's Rules and Regulations, the undersigned caused an investigation to be conducted concerning the challenges and the Petitioner and Employer's objections, during which the parties were afforded full opportunity to submit evidence bearing on the issues. As explained below, I make the following findings regarding the challenges, but I am reserving my decision on the parties' objections.

### **The Challenges**

#### *Duplicate Ballots: Crowe and Cuzco*

The Petitioner challenged the ballot of Lorenzo Crowe because he requested a duplicate ballot be sent to a new address. The Petitioner states that someone other than Crowe could have called the Region, requested a duplicate ballot, and returned the duplicate ballot. The Petitioner offers no evidence to support this allegation. Petitioner challenged the ballot of Michael Cuzco on the ground that he requested a duplicate ballot but returned his original ballot. The Petitioner states that Cuzco's ballot should not be counted because he returned the original ballot instead of the duplicate. The Employer asserts that Crowe and Cuzco's ballots should be opened and counted.

The investigation revealed that the Region received only one ballot from each Crowe and Cuzco.

With regard to a voter who has moved or whose address is not correct on the voter list, the Board's Casehandling Manual for Representation Proceedings (the "Manual") specifically provides that the Region should send that voter a duplicate kit. *See Casehandling Manual, Part Two,*



*Representation Proceedings*, Section 11336.4. The Manual does not require that the employee demonstrate his/her identity or correct address. The Petitioner offers no evidence that anyone other than Crowe requested the duplicate ballot. The Petitioner's speculation that someone else *could* have requested a duplicate ballot is not sufficient to support its challenge to Crowe's ballot. In accordance with the provisions of the Manual, I overrule the challenge to the ballot of Crowe and direct that his ballot be opened and counted.

With regard to Cuzco's ballot, the Manual states that a voter may request a duplicate ballot if s/he lost or spoiled his or her original ballot. The Manual further states, "In the event both the original and the duplicate envelopes are received from an employee to whom a duplicate was mailed, only the ballot in the envelope having the earlier postmark should be counted." *Casehandling Manual, Part Two, Representation Proceedings*, Section 11336.4. The Manual does not require that the Board void the original ballot in the event that a duplicate ballot is issued. To the contrary, a voter may return both an original and a duplicate ballot and the Board will count one of those ballots. Accordingly, I overrule the challenge to the ballot of Cuzco and direct that his ballot be opened and counted.

*Postmarks: Kellem and Martina*

The Petitioner challenged the ballot of Sherob Kellam on the ground that his ballot was postmarked after July 31, 2020; Petitioner challenged the ballot of Katharyne Martina on the ground that her ballot was not postmarked. The Employer asserts that these ballots should be opened and counted.

The Manual clearly states that any ballot received by the Regional office before the count should be counted, "even if they are received after close of business on the return by date." *See Casehandling Manual, Part Two, Representation Proceedings*, Section 11336.5(c) citing *Kerrville Bus Co.*, 257 NLRB 176, 177 (1981) ("Although the record here does not disclose any reason for [voters'] late mailing of their ballots, the Board has not regarded the absence of an excuse as a factor invariably requiring that a late ballot not be counted. In the instant case, we find most significant the fact that the ballots of both [voters] were received by the Board prior to the counting of ballots."); *Premier Utility Services, LLC*, 363 NLRB No. 159, slip op. at 1 fn.1 (2016) ("The Board will generally permit mail ballots received after the due date, but before the count, to be opened and tallied."); *Classic Valet Parking, Inc.*, 363 NLRB No. 23 (2015).

In this case, the ballots of Kellam and Martina were both received by the Board before the count. With regard to Martina's ballot, which was not postmarked, I note that the Region did not receive ballots in person during this election. Martina's ballot must have been received by mail. Under the provisions of the Board Manual and the Board's precedent, these ballots should be opened and counted. I overrule the challenges to the ballots of Kellam and Martina and direct that their ballots be opened and counted.

*Marked Sample Ballot: Anonymous Voter*

During the count, the Employer objected to counting a ballot where the voter marked and returned the sample ballot on the Notice of Election instead of the official ballot. The Board has held that marked sample ballots may be counted where the intent of the voter is clear. In *Aesthetic Designs*, 339 NLRB 395 (2003), the Board found that a marked sample ballot received in a mail ballot election should be counted. The Board reasoned that "counting the sample ballot is entirely consistent with the

primary goal of protecting employee free choice.” *Id.* at 395. The Employer does not contend and presents no evidence that the markings on the ballot in question were ambiguous. Instead, the Employer urges that the Region adopting the dissenting view in *Aesthetic Designs*, which argued that a sample ballot not be counted.<sup>2</sup> That view, however, is not the Board’s holding in *Aesthetic Designs*. Based on Board law, I overrule the Employer’s challenge to the marked sample ballot received in this case and direct that it be counted.

### **Reservation on Objections**

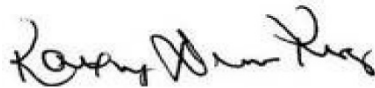
I have directed that the ballots of Crowe, Cuzco, Kellem, and Martina be opened and counted. I have further directed that the marked sample ballot be counted as a valid ballot in the Tally of Ballots. In order to facilitate an expeditious resolution of this case, I will reserve my ruling on the parties’ objections until a Revised Tally of Ballots is issued.

### **Request for Review**

Pursuant to Section 102.69 (c)(2) of the Board’s Rules and Regulations, any party may file with the Board in Washington, D.C., a Request for Review of this Decision. This Request for Review must conform with the requirements of Sections 102.67(e) and (i)(1) of the Board’s Rules and must be received by Washington not later than ten business days from the date of the final decision and/or certification of the Regional Director in this case.

A Request for Review must be E-Filed through the Agency’s website. To E-File the Request for Review, go to [www.nlrb.gov](http://www.nlrb.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. A party filing a Request for Review must serve a copy on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the Request for Review.

Dated at Brooklyn, New York, on September 22, 2020.



---

Kathy Drew King  
Regional Director, Region 29  
National Labor Relations Board  
Two MetroTech Center  
Brooklyn, New York 11201

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<sup>2</sup> I note that the dissent in *Aesthetic Designs* raised the possibility that a voter could be identified by use of the sample ballot. The Employer does not contend and presents no evidence showing that any voter’s identity was compromised in this case.

# **ATTACHMENT 2**

BRINK'S GLOBAL SERVICES USA, INC.'S OPPOSITION TO  
PETITIONER'S REQUEST FOR REVIEW  
Case No. 29-RC-260969

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

	)	
BRINK'S GLOBAL SERVICES USA, INC.	)	
	)	
	)	
	)	
Employer	)	
and	)	Case No. 29-RC-260969
	)	
	)	
LAW ENFORCEMENT SECURITY	)	
OFFICERS UNION (LEOSU), LAW	)	
ENFORCEMENT OFFICERS SECURITY	)	
AND POLICE BENEVOLENT	)	
ASSOCIATION (LEOS-PBA)	)	
	)	
Petitioner	)	
	)	

**REPORT ON CHALLENGES**

On May 29, 2020,<sup>1</sup> Law Enforcement Security Officers Union (LEOSU), Law Enforcement Officers Security and Police Benevolent Association (LEOS-PBA) ("Petitioner"), filed a petition in this matter seeking to represent certain employees employed by Brink's Global Services USA, Inc. ("Employer").

Pursuant to a Decision and Direction of Election, issued by the undersigned on June 25, an election by mail ballot was conducted on July 10 among the employees in the following unit:

All full-time and regular part-time drivers, messengers, vault clerks, and cashiers performing guard functions as defined by Section 9(b)(3) of the Act, employed by the Employer at and out of its facility located at 184-45 147<sup>th</sup> Avenue, Suite 101, Springfield Gardens, New York, but excluding all other employees, including managerial employees, office employees, maintenance employees, customer services representatives, dispatchers, accounting employees, and supervisors as defined in Section 2(11) of the Act.

---

<sup>1</sup> All dates hereinafter are in 2020 unless otherwise indicated.

The Tally of Ballots made available to the parties at the conclusion of the election pursuant to the Board's Rules and Regulations, showed the following results:

Approximate number of eligible voters	52
Number of void ballots	3
Number of ballots cast for the Union	17
Number of votes cast against participating labor organization	15
Number of valid votes counted	32
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Number of valid votes counted plus challenged ballots	37

Challenges are sufficient in number to affect the results of the election.

The Petitioner challenged the ballot of Lorenzo Crowe because he requested a duplicate ballot be sent to a new address; the Petitioner challenged the ballot of Michael Cuzco on the ground that he requested a duplicate ballot but returned his original ballot. Petitioner challenged the ballot of Sherob Kellam on the ground that his ballot was postmarked after July 31, 2020; Petitioner challenged the ballot of Katharyne Martina on the ground that her ballot was not postmarked. The Employer challenged the ballot of an unknown voter who had marked the sample ballot from the Notice of Election instead of the official ballot.

The Petitioner and the Employer filed timely objections to the election.

Pursuant to Section 102.69 of the Board's Rules and Regulations, the undersigned caused an investigation to be conducted concerning the challenges and the Petitioner and Employer's objections, during which the parties were afforded full opportunity to submit evidence bearing on the issues. As explained below, I make the following findings regarding the challenges, but I am reserving my decision on the parties' objections.

### **The Challenges**

#### *Duplicate Ballots: Crowe and Cuzco*

The Petitioner challenged the ballot of Lorenzo Crowe because he requested a duplicate ballot be sent to a new address. The Petitioner states that someone other than Crowe could have called the Region, requested a duplicate ballot, and returned the duplicate ballot. The Petitioner offers no evidence to support this allegation. Petitioner challenged the ballot of Michael Cuzco on the ground that he requested a duplicate ballot but returned his original ballot. The Petitioner states that Cuzco's ballot should not be counted because he returned the original ballot instead of the duplicate. The Employer asserts that Crowe and Cuzco's ballots should be opened and counted.

The investigation revealed that the Region received only one ballot from each Crowe and Cuzco.

With regard to a voter who has moved or whose address is not correct on the voter list, the Board's Casehandling Manual for Representation Proceedings (the "Manual") specifically provides that the Region should send that voter a duplicate kit. *See Casehandling Manual, Part Two,*

*Representation Proceedings*, Section 11336.4. The Manual does not require that the employee demonstrate his/her identity or correct address. The Petitioner offers no evidence that anyone other than Crowe requested the duplicate ballot. The Petitioner's speculation that someone else *could* have requested a duplicate ballot is not sufficient to support its challenge to Crowe's ballot. In accordance with the provisions of the Manual, I overrule the challenge to the ballot of Crowe and direct that his ballot be opened and counted.

With regard to Cuzco's ballot, the Manual states that a voter may request a duplicate ballot if s/he lost or spoiled his or her original ballot. The Manual further states, "In the event both the original and the duplicate envelopes are received from an employee to whom a duplicate was mailed, only the ballot in the envelope having the earlier postmark should be counted." *Casehandling Manual, Part Two, Representation Proceedings*, Section 11336.4. The Manual does not require that the Board void the original ballot in the event that a duplicate ballot is issued. To the contrary, a voter may return both an original and a duplicate ballot and the Board will count one of those ballots. Accordingly, I overrule the challenge to the ballot of Cuzco and direct that his ballot be opened and counted.

*Postmarks: Kellem and Martina*

The Petitioner challenged the ballot of Sherob Kellam on the ground that his ballot was postmarked after July 31, 2020; Petitioner challenged the ballot of Katharyne Martina on the ground that her ballot was not postmarked. The Employer asserts that these ballots should be opened and counted.

The Manual clearly states that any ballot received by the Regional office before the count should be counted, "even if they are received after close of business on the return by date." See *Casehandling Manual, Part Two, Representation Proceedings*, Section 11336.5(c) citing *Kerrville Bus Co.*, 257 NLRB 176, 177 (1981) ("Although the record here does not disclose any reason for [voters'] late mailing of their ballots, the Board has not regarded the absence of an excuse as a factor invariably requiring that a late ballot not be counted. In the instant case, we find most significant the fact that the ballots of both [voters] were received by the Board prior to the counting of ballots."); *Premier Utility Services, LLC*, 363 NLRB No. 159, slip op. at 1 fn.1 (2016) ("The Board will generally permit mail ballots received after the due date, but before the count, to be opened and tallied."); *Classic Valet Parking, Inc.*, 363 NLRB No. 23 (2015).

In this case, the ballots of Kellam and Martina were both received by the Board before the count. With regard to Martina's ballot, which was not postmarked, I note that the Region did not receive ballots in person during this election. Martina's ballot must have been received by mail. Under the provisions of the Board Manual and the Board's precedent, these ballots should be opened and counted. I overrule the challenges to the ballots of Kellam and Martina and direct that their ballots be opened and counted.

*Marked Sample Ballot: Anonymous Voter*

During the count, the Employer objected to counting a ballot where the voter marked and returned the sample ballot on the Notice of Election instead of the official ballot. The Board has held that marked sample ballots may be counted where the intent of the voter is clear. In *Aesthetic Designs*, 339 NLRB 395 (2003), the Board found that a marked sample ballot received in a mail ballot election should be counted. The Board reasoned that "counting the sample ballot is entirely consistent with the

primary goal of protecting employee free choice.” *Id.* at 395. The Employer does not contend and presents no evidence that the markings on the ballot in question were ambiguous. Instead, the Employer urges that the Region adopting the dissenting view in *Aesthetic Designs*, which argued that a sample ballot not be counted.<sup>2</sup> That view, however, is not the Board’s holding in *Aesthetic Designs*. Based on Board law, I overrule the Employer’s challenge to the marked sample ballot received in this case and direct that it be counted.

### **Reservation on Objections**

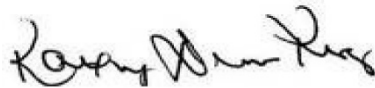
I have directed that the ballots of Crowe, Cuzco, Kellem, and Martina be opened and counted. I have further directed that the marked sample ballot be counted as a valid ballot in the Tally of Ballots. In order to facilitate an expeditious resolution of this case, I will reserve my ruling on the parties’ objections until a Revised Tally of Ballots is issued.

### **Request for Review**

Pursuant to Section 102.69 (c)(2) of the Board’s Rules and Regulations, any party may file with the Board in Washington, D.C., a Request for Review of this Decision. This Request for Review must conform with the requirements of Sections 102.67(e) and (i)(1) of the Board’s Rules and must be received by Washington not later than ten business days from the date of the final decision and/or certification of the Regional Director in this case.

A Request for Review must be E-Filed through the Agency’s website. To E-File the Request for Review, go to [www.nlrb.gov](http://www.nlrb.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. A party filing a Request for Review must serve a copy on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the Request for Review.

Dated at Brooklyn, New York, on September 22, 2020.



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Kathy Drew King  
Regional Director, Region 29  
National Labor Relations Board  
Two MetroTech Center  
Brooklyn, New York 11201

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<sup>2</sup> I note that the dissent in *Aesthetic Designs* raised the possibility that a voter could be identified by use of the sample ballot. The Employer does not contend and presents no evidence showing that any voter’s identity was compromised in this case.

# **ATTACHMENT 3**

BRINK'S GLOBAL SERVICES USA, INC.'S OPPOSITION TO  
PETITIONER'S REQUEST FOR REVIEW  
Case No. 29-RC-260969



**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

	)	
BRINK'S GLOBAL SERVICES USA, INC.	)	
	)	
	)	
Employer	)	
and	)	Case No. 29-RC-260969
	)	
	)	
LAW ENFORCEMENT SECURITY	)	
OFFICERS UNIONS (LEOSU),	)	
LAW ENFORCEMENT OFFICERS	)	
SECURITY AND POLICE BENEVOLENT	)	
ASSOCIATON (LEOS-PBA)	)	
	)	
Petitioner	)	
	)	

**ORDER DENYING MOTION TO REOPEN THE HEARING AND  
DECISION AND DIRECTION OF ELECTION**

Brink's Global Services USA, Inc., herein called the Employer, provides cash management logistic solutions and secure transportation services to banks, retailers, and other commercial and governmental agencies in the United States and abroad. On May 29, 2020<sup>1</sup> Law Enforcement Security Officers Unions (LEOSU) Law Enforcement and Police Benevolent Association (LEOS-PBA) ("the Petitioner") filed a petition under Section 9(c) of the National Labor Relations Act, seeking to represent all full-time and regular part-time drivers, messengers, vault clerks, and cashiers performing guard functions as defined by Section 9(b)(3) of the Act, employed by the Employer at and out of its facility located at 184-45 147<sup>th</sup> Avenue, Suite 101, Springfield Gardens, New York, but excluding all other employees, including managerial employees, office employees, maintenance employees, customer services representatives, dispatchers, accounting employees, and supervisors as defined in Section 2(11) of the Act.

A hearing was held before Sarah Hurley, a hearing officer of the National Labor Relations Board.

The only issue at the hearing was whether to conduct a manual or a mail ballot election. For the reasons explained below, I will direct that the election be conducted by mail ballot.

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<sup>1</sup> All dates hereinafter are in 2020 unless otherwise indicated.

### The Employer's Argument Regarding Manual Election

At the hearing, the Employer contended that a manual election would be appropriate in this case.

Whether an election is to be conducted by mail, manually, or some other method is an administrative matter to be determined by the Regional Director. *National Van Lines*, 120 NLRB 1343 (1958). Traditionally, most Board elections are conducted by manual voting, and there is a presumption in favor of conducting elections in this manner. See Section 11301.2, *Board Casehandling Manual, Part Two, Representation Proceedings*. However, when certain factors are present, this presumption may be overcome. In *San Diego Gas & Electric*, 325 NLRB 1143 (1998), the Board recognized that mail ballot elections are appropriate under specific, well-settled guidelines, such as where employees are scattered or where there is a strike, lockout, or picketing in place. The Board further found that a Regional Director may consider additional relevant factors when contemplating when to conduct a mail ballot election and that "extraordinary circumstances" could permit a Regional Director to do so. See *San Diego Gas & Electric*, 325 NLRB at 1145. The Board has recognized that the COVID 19 pandemic presents such an extraordinary circumstance. See, e.g., *Atlas Pacific Engineering Co.*, 27-RC-258742 (NLRB May 8, 2020).

The Employer represented that it could provide a clean, safe polling place in which a manual election could occur with personal protective equipment, such as masks and gloves, and sufficient space for social distancing. Despite these proposed safety measures, I have determined that an in-person manual election under these circumstances poses significant and unnecessary risks to the health and safety of Board Agents, Party representatives, voters, observers and the public. The conduct of a manual election invariably requires participants to come within fewer than six feet of one another, while social distancing guidelines provided by Federal, State and Local authorities recommend that individuals remain at least six feet apart. Under the Board's manual election procedures, Board Agents conducting the election and election observers are required to spend the duration of the polling session and ballot count process together in close proximity within a confined space. Even with the Employer's proposed efforts to encourage election participants to practice social distancing, Board Agents and observers will likely have to interact with voters and/or Party representatives who may have questions or who may wish to raise issues about the conduct of the election. These procedures necessarily carry the risk of exposure for employees at the Employer's facility, party representatives, Board personnel, their families, and the community.

Conducting the election in this case by mail ballot, however, significantly reduces these risks. Conducting a mail ballot election will enable Board Agents, voters, observers and Party representatives to maintain safe social distancing throughout the polling process. I am considering measures to limit the number of people who may participate in the ballot count and other methods of maintaining social distancing between participants, including conducting the count remotely using videoconference technology. Such safety measures, which can be enacted for a mail ballot election in accordance with Board procedures, will ensure that this election is conducted with minimal risk to the participants' personal safety and public health.

During the hearing, the Employer also noted that New York City has begun its reopening plan. After the hearing closed, the Employer filed a Motion to Reopen the Record on June 22. The Employer argues that the hearing should be reopened to accept evidence of New York City's move into Phase 2.

The Employer cites “Reopening New York,” a New York State brochure produced by New York State which explains procedures to be followed to deal with COVID 19. Although certain restrictions have been eased in New York City, the brochure makes clear that individuals must still maintain a distance of six feet “at all times, unless safety of the core activity requires a shorter distance.” That cannot be accomplished during a manual election. Therefore, I hereby deny the Employer’s Motion to Reopen the Record, and I find that it would be safer for party representatives, Board personnel, their families, and the community to conduct this election by mail ballot.

I find that the current COVID-19 pandemic presents extraordinary circumstances requiring a mail ballot election in this case. Given the significant health risks to voters, observers, Board Agents, party representatives and the general public with a manual election, which often require person-to-person contact, a mail ballot is warranted here.

### **CONCLUSIONS AND FINDINGS**

Based upon the entire record in this proceeding, the undersigned finds and concludes as follows:

1. I find that the rulings made by the Hearing Officer at the hearing are free from prejudicial error and hereby are affirmed.

2. The record indicates that Brink’s Global Services USA, Inc., a Delaware corporation, with its principal office located in New York, New York, and a facility located at 184-45 147<sup>th</sup> Avenue, Suite 101, Springfield Gardens, New York, provides cash management logistic solutions and secure transportation services to banks, retailers, and other commercial and governmental agencies in the United States and abroad. During the past year preceding the filing of this petition, a representative period, the Employer provided services valued in excess of \$50,000 to customers located outside New York State.

Based on the foregoing, I find that Brink’s Global Services USA, Inc. is engaged in commerce within the meaning of the Act. It will therefore effectuate the purposes of the Act to assert jurisdiction in this case.

3. I hereby find that Law Enforcement Security Officers Unions (LEOSU) Law Enforcement and Police Benevolent Association (LEOS-PBA) is a labor organization as defined in Section 2(5) of the Act and is qualified to represent guards within the meaning of Section 9(b)(3) of the Act.

4. A question affecting commerce exists concerning the representation of certain employees of the Employers within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. I find that the following employees constitute a unit appropriate for the purposes of collective bargaining:

All full-time and regular part-time drivers, messengers, vault clerks, and cashiers performing guard functions as defined by Section 9(b)(3) of the Act, employed by the

Employer at and out of its facility located at 184-45 147<sup>th</sup> Avenue, Suite 101, Springfield Gardens, New York, but excluding all other employees, including managerial employees, office employees, maintenance employees, customer services representatives, dispatchers, accounting employees, and supervisors as defined in Section 2(11) of the Act.

## **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct secret ballot elections among the employees in the unit found appropriate above. Employees will vote whether they wish to be represented for purposes of collective bargaining by Law Enforcement Security Officers Unions (LEOSU) Law Enforcement and Police Benevolent Association (LEOS-PBA).

### **A. Election Details**

The election will be held by mail ballot. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 29, on **JULY 10, 2020**. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 29 office by close of business on **JULY 31, 2020**<sup>2</sup>. The mail ballots will be counted by video conference, on a date and at a time and in a to be determined by the Regional Director after consultation with the parties.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Board Agent Sarah Hurley via phone at (718) 765-6200 or via e-mail at [sarah.hurley@nlrb.gov](mailto:sarah.hurley@nlrb.gov) by no later than 5:00 p.m. on July 17, 2020 in order to arrange for another mail ballot kit to be sent to that employee.

### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending **June 21, 2020**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

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<sup>2</sup> In order to be valid and counted, the returned ballots must be postmarked on or before July 31, 2020 and received in the Region 29 Office prior to the counting of the ballots.

### C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **June 29, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

### D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the

nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website. To E-File the request for review, go to [www.nlrb.gov](http://www.nlrb.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Brooklyn, New York, on June 25, 2020.



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Kathy Drew King  
Regional Director, Region 29  
National Labor Relations Board  
Two MetroTech Center, 5th Floor  
Brooklyn, New York 11201

Attachments:

Notice of Election



United States of America  
National Labor Relations Board



## NOTICE OF ELECTION

### INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL

**PURPOSE OF ELECTION:** This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

**SECRET BALLOT:** The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

**ELIGIBILITY RULES:** Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

**CHALLENGE OF VOTERS:** An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

**AUTHORIZED OBSERVERS:** Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

**ELECTION DETAILS:** The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate voting unit by the office of the National Labor Relations Board, Region 29, on **Friday, July 10, 2020**. Voters must return their mail ballots so that they will be received by the National Labor Relations Board, Region 29, by close of business on **Friday, July 31, 2020**. Voters must sign the outside of the envelope in which the ballot is returned. **Any ballot received in an envelope that is not signed will be automatically void.**

Any employee who believes that he/she is eligible to vote but did not receive a ballot or who otherwise requires a duplicate mail ballot kit should communicate immediately with the National Labor Relations Board by either calling the Region 29 Office at 718-765-6200 or our national toll-free line at 1-844- 762-NLRB (1-844- 762-6572), no later than **Friday, July 17, 2020**.

Due to the extraordinary circumstances of COVID-19 and the directions of state and local authorities including but not limited to Shelter in Place orders, travel restrictions, social distancing and limits on the size of gatherings of individuals, the ballot count will take place on a date and in a manner to be determined by the Regional Director.

All ballots will be commingled and counted on a date and time to be determined by the Regional Director. In order to be valid and counted, the returned ballots must be received by the Region 29 Office prior to the counting of the ballots.

The Region will provide notice to the parties of the scheduled date for the ballot count at least 24 hours prior to the count. The count will take place virtually on a platform such as Skype, WebEx, etc., to be determined by the Regional Director. The Parties agree that each party will be allowed to have one observer attend the virtual ballot count.



United States of America  
National Labor Relations Board



NOTICE OF ELECTION

INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL


VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time drivers, messengers, vault clerks, and cashiers performing guard functions as defined by Section 9(b)(3) of the Act, employed by the Employer at and out of its facility located at 184-45 147th Avenue, Suite 101, Springfield Gardens, New York, who were employed by the Employer during the payroll period ending June 21, 2020.


EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees including, managerial employees, office employees, maintenance employees, customer service representatives, dispatchers, accounting employees, and supervisors as defined in Section 2(11) of the Act.



UNITED STATES OF AMERICA  
ESTADOS UNIDOS DE AMERICA  
National Labor Relations Board  
Junta Nacional De Relaciones Del Trabajo  
29-RC-260969

OFFICIAL SECRET BALLOT  
PAPELETA SECRETA OFICIAL  
For certain employees of  
Para Ciertos Empleados De  
BRINK'S GLOBAL SERVICES USA, INC.



Do you wish to be represented for purposes of collective bargaining by  
¿Desea usted estar representado para los fines de negociar colectivamente por

LAW ENFORCEMENT SECURITY OFFICERS UNIONS LEOSU, LAW  
ENFORCEMENT AND POLICE BENEVOLENT ASSOCIATION (LEOS-  
PBA)?

MARK AN "X" IN THE SQUARE OF YOUR CHOICE  
MARQUE CON UNA "X" DENTRO DEL CUADRO DE SU SELECCIÓN

YES SI	NO NO
-----------	----------

DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.  
MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.

NO FIRME O ESCRIBA SU NOMBRE O INCLUYA OTRAS MARCAS QUE REVELARÍAN SU IDENTIDAD. MARQUE UNA "X" EN EL CUADRADO DE SU ELECCIÓN SOLAMENTE. Si hace marcas dentro, o en cualquier lugar alrededor, en más de un cuadrado, puede solicitar una nueva papeleta consultando las instrucciones adjuntas. Si envía una papeleta con marcas en el interior, o en cualquier lugar alrededor, en más de un cuadrado, su papeleta no será contada.

Vea las Instrucciones incluidas.

The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.

La Junta Nacional de Relaciones del Trabajo no respalda a ninguna de las opciones en esta elección. Cualquier marca que se pueda ver en cualquier muestra de la papeleta no fue hecha por la Junta Nacional de Relaciones del Trabajo.



United States of America  
National Labor Relations Board

**Instructions to Eligible Employees Voting  
By United States Mail**



**INSTRUCTIONS**

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE YELLOW RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call the Regional Office at:

718-765-6200

**TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE**

**BY** July 31, 2020

# RIGHTS OF EMPLOYEES

**Under the National Labor Relations Act, employees have the right:**

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

**It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.**

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

**The following are examples of conduct that interfere with the rights of employees and may result in the setting aside of the election:**

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

**The National Labor Relations Board protects your right to a free choice**

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



**NATIONAL LABOR RELATIONS BOARD**  
*an agency of the*  
**UNITED STATES GOVERNMENT**



**United States of America  
National Labor Relations Board  
NOTICE OF ELECTION**



**INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL**

**RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:**

- **Form, join, or assist a union**
- **Choose representatives to bargain with your employer on your behalf**
- **Act together with other employees for your benefit and protection**
- **Choose not to engage in any of these protected activities**
- **In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).**

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

**The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.**

**If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.**

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- **Threatening loss of jobs or benefits by an Employer or a Union**
- **Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises**
- **An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity**
- **Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched**
- **Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals**
- **Threatening physical force or violence to employees by a Union or an Employer to influence their votes**

The National Labor Relations Board protects your right to a free choice.

**Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.**

**Anyone with a question about the election may contact the NLRB Office at (718)765-6200 or visit the NLRB website [www.nlrb.gov](http://www.nlrb.gov) for assistance.**

# **ATTACHMENT 4**

BRINK'S GLOBAL SERVICES USA, INC.'S OPPOSITION TO  
PETITIONER'S REQUEST FOR REVIEW  
Case No. 29-RC-260969

## **DECLARATION OF KELLY APUZZO**

I, Kelly Apuzzo, declare and state as follows:

1. I am currently employed by Brink's Global Services USA, Inc. (the "Company") in the position of Human Resources Manager.
2. I submit this Declaration in support of the Company's *Opposition to Petitioner's Request for Review of Regional Director's Report on Challenges* in NLRB Case 29-RC-260969.
3. I was present by videoconference as a representative for the Company during the ballot count that was conducted by an agent of the NLRB on August 25, 2020 in the above-referenced case.
4. I observed the Board agent when he opened the envelopes containing the ballots. I recall that he followed a specific process to do so. First, he picked up the yellow outer mailing envelopes one at a time, stating the ballot number, the name of the employee, and the date of the postmark. While he did so, the Board agent held each envelope up to the camera to clearly display the employee's signature and the postmark. When the Union or the Company's representative asked for a closer look at a signature, the Board agent showed the signature again each time a request was made.
5. I recall one ballot envelope had a postmark date of August 1, 2020. Another ballot had no postmark date. I recall the Union verbally challenged both of these ballots during the count.
6. I recall that for many of the ballot envelopes that the Board agent displayed, a stamp was visible on the envelope in addition to the postmark. It appeared to me that the stamp showed the date when the envelope was received by the NLRB. I recall that most of the stamps I saw indicated a receipt date of "August 12." I do not recall noticing any stamps that showed a

receipt date other than August 12.

I declare under penalty of perjury under the laws of the State of New York that the above is true and correct to the best of my recollection.

Executed this 9<sup>th</sup> day of October, 2020, at Springfield Gardens, New York.

  
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Kelly Apuzzo

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